

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

IN RE: TEMPERATURE TRIGGER FOR COLD WEATHER PROTECTIONS [199 IAC 19.4(15), 20.4(15)]	DOCKET NO. RMU-03-10
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ORDER TERMINATING RULE MAKING

(Issued April 6, 2004)

PROCEDURAL HISTORY

Pursuant to the authority of Iowa Code §§ 17A.4, 17A.4(1)"b," 476.1, 476.2, and 476.20 (2003), the Utilities Board (Board) is terminating the rule making identified as Docket No. RMU-03-10. A "Notice of Termination" is attached to this order and incorporated by reference. The Board commenced the rule making on August 6, 2003, to receive public comment on a petition for rule making filed by the Iowa Community Action Association (ICAA). The petition proposed to amend the Board's rule establishing a temperature below which a utility could not disconnect a customer for non-payment from 20 degrees Fahrenheit to 32 degrees Fahrenheit. The proposed amendments were published in IAB Vol. XXVI, No. 5 (9/3/03) p. 333, as ARC 2725B.

On August 6, 2003, the temperature trigger was found in subparagraphs 199 IAC 19.4(15)"h"(6) and 20.4(15)"h"(6), and in 199 IAC 19.4(15)"i" and 20.4(15)"i." Since the publication of the proposed amendments, the Board has

adopted amendments to its rules that renumber subparagraphs 19.4(15)"h"(6) and 20.4(15)"h"(6) as subparagraphs 19.4(15)"d"(7) and 20.4(15)"d"(7). Paragraphs 19.4(15)"i" and 20.4(15)"i" have been rescinded.

Written comments were filed in this docket by Interstate Power and Light Company (IPL), MidAmerican Energy Company (MidAmerican), Aquila, Inc., d/b/a Aquila Networks (Aquila), the Iowa Association of Municipal Utilities, the Iowa Association of Electric Cooperatives (IAEC), Iowa Legal Aid, the City of Wayland, the Consumer Advocate Division of the Department of Justice (Consumer Advocate), and Richard A. Nation.

On October 1, 2003, the Board gave notice that the date of the oral presentation for this rule making was rescheduled from October 14, 2003, to October 28, 2003. The "Amended Notice of Intended Action" was published in IAB Vol. XXVI, No. 7 (10/1/03) p. 654, as ARC 2806B. The oral presentation was held on October 28, 2003. IPL, MidAmerican, IAEC, Aquila, ICAA, and Consumer Advocate appeared and made comments or responded to Board questions.

At the oral presentation, some of the participants requested an opportunity to file additional comments. On October 31, 2003, the Board issued an order allowing additional comments to be filed. In addition, the Board requested the parties address the following question:

Prior to the adoption of the current provisions in subparagraphs 19.4(15)"h"(5) and 20.4(15)"h"(6) establishing 20 degrees Fahrenheit as the temperature below which a customer cannot be disconnected, the Board rules only prohibited disconnection when the temperature was below 20 degrees for customers with broken bill

payment agreements. Please comment whether your company or organization would support narrowing the provision to apply only to customers with broken payment agreements but with a 32-degree temperature trigger.

IAMU, Consumer Advocate, IPL, and MidAmerican filed additional comments.

The comments will be summarized below, along with an analysis addressing the proposed amendment.

SUMMARY OF COMMENTS

1. ICAA

In the petition for rule making, ICAA stated that Iowa Code § 476.20 demonstrates clear legislative intent to protect households that do not have sufficient financial resources from the dangers of losing their heating service during winter months. Households certified eligible for the low-income home energy assistance program (LIHEAP) and the low-income home weatherization program are protected under this statute. ICAA points out further that the Board's rule establishing the 20-degree Fahrenheit temperature trigger applies to all households and the rule should continue to be applied to all households since many low-income households do not apply for and, therefore, are not certified for energy assistance or weatherization.

On October 17, 2003, ICAA filed a supplemental petition. In the petition, ICAA provides a list of states with temperature triggers and states that it researched the origin of the Board's current rule and could find no specific rationale for the current 20-degree trigger. ICAA contends that low-income housing has less resistance to

extreme cold temperatures and this places low-income residents at a greater risk than other members of the public and, therefore, they should be protected at a higher level than the current 20 degrees.

ICAA states that the proposed amendment was designed to aid all low-income families since LIHEAP-certified households are protected by Iowa Code § 476.20 but only 45 percent of low-income households become LIHEAP-certified. ICAA cites a study that shows energy assistance does not adequately cover the cost of energy for low-income households and stated that LIHEAP is only one tool to protect low-income households and the program cannot provide all the protection needed.

ICAA agrees with the comments of Consumer Advocate that the Board should look at the broader principle of protecting customers over the cost to other customers that would result from the proposed amendment. ICAA states that it would continue to work with the legislature on ways to provide additional funding for low-income energy assistance programs. ICAA points out that over the last few years, there has been a decline in both the state's commitment to low-income energy assistance programs and ICAA has lost \$1 million in emergency assistance program funds, which also assisted low-income individuals in taking care of their heating bills.

2. Consumer Advocate

Consumer Advocate supports the proposed rule making and stated that the current rule provides some protection for low-income households against potentially life-threatening dangers associated with disconnection of electric and gas service

during the winter months. This protection should be extended to ensure these households have additional protection from the dangers of winter weather.

Consumer Advocate states that because most low-income households are excluded from the statutory winter disconnection moratorium, the proposed amendment provides these households with some small degree of protection. Consumer Advocate states it does not oppose limiting the proposed amendment to apply only to customers with broken payment agreements if the utility affirmatively advises customers of their rights to enter into a first payment agreement prior to disconnection.

Consumer Advocate states the proposed amendment would add only a small amount of additional bad debt to utility companies, which should not defeat the proposed amendment. Consumer Advocate compared this situation to the Board's concern for rate shock in the most recent electric IPL rate case. Consumer Advocate states that in that case the Board modified the final rates to alleviate rate shock to some customers even though it would somewhat disadvantage other customers. The Board recognized the broader principle of minimizing rate shock as a factor to be considered. Consumer Advocate asserts that the Board should recognize the broader principle of protecting customers in adopting the proposed amendment.

Consumer Advocate cites another example where in the Consumer Advocate's view, the Board followed a broader principle: When the Board increased rates to provide additional funds for the weatherization programs in the recent round of energy efficiency plans. The Board's decision had consequences in terms of cost

to other customers, but the Board felt that was an appropriate public policy decision. The Board has to decide what is fair for all customers and when special treatment should be afforded to certain customers because of their circumstances.

3. Legal Aid

Legal Aid supports the proposed amendment. Legal Aid states that it understood the current rule was established at the temperature at which water pipes freeze in a house and was designed to protect property. Legal Aid suggests that human life should also be protected.

4. Wayland

Wayland suggests that if disconnection is prohibited when temperatures are expected to be under 32 degrees, some customers could be left with very large account balances that would not be collectable. This would affect the cost of utility service to other customers, especially for a system with a relatively small number of customers.

5. IAMU

IAMU did not state a position for or against the proposed amendment, but did offer several comments. IAMU states that the current rule has been in effect for many years and the Board had extended the original rule to all customers, not just to those who have defaulted on payment agreements. IAMU states that the proposed amendment would extend the prohibition to even more households and could give truly needy customers a sense of false security that would prevent them from seeking LIHEAP assistance. In addition, the increase in the number of customers protected

would increase the amount of uncollected debts and resulting lost revenues, which would result in higher rates for other customers.

IAMU states if the proposed amendment had been in effect in the winter of 2001-2002, the number of days when a customer could not have been disconnected would have increased from 81 days to 149 days. IAMU states that it has collected responses from 39 member utilities in response to data requests from Consumer Advocate. IAMU states that the information shows that in the 39 municipalities only 123 disconnections for non-payment occurred in January 2003 out of a total of 101,754 customers. IAMU states that many of the municipalities indicated that disconnection for non-payment is not an issue and other responses indicated that bad debt and delinquent accounts are a significant problem. For small municipalities, even one customer with a large bad debt can significantly increase the cost of utility service to other customers or to the municipality. IAMU supports limiting the proposed amendment to those customers who have defaulted on a payment plan.

6. IAEC

IAEC opposes the proposed amendment and states that the proposed amendment does not address the problems cited by ICAA in the petition. IAEC states the proposed amendment would greatly increase the number of days when a customer could not be disconnected and would increase the unpaid balance for those customers who could not pay their utility bills. IAEC contends that the deficiencies cited by ICAA in the petition should be addressed by ICAA and not the Board.

IAEC states that LIHEAP customers already enjoy many protections and the proposed amendment would expand protections for all customers, not just low-income customers. If the rule is adopted, IAEC supports narrowing the proposed amendment to those customers who have broken payment agreements, but also suggests narrowing the proposed amendment may have little benefit since most customers subject to disconnection have broken a payment agreement.

IAEC states that if the intent of the proposed rule is to make up for shortfalls in funding of the LIHEAP program, the shortfalls are not something that should be placed on other ratepayers, but rather should be covered on a society-wide basis. IAEC does not disagree with Consumer Advocate that the Board has the authority and the ability to make policy decisions as it drafts rules and agrees policy issues come into play in all of the rules. IAEC is concerned that if the proposed rule is not narrowly tailored to address the specific problem, the result is that an additional burden is placed on other ratepayers. IAEC points out that the statutes refer to certified LIHEAP customers, not necessarily customers that are actually receiving LIHEAP payments, and so the current rules should protect all low-income lowans during the winter moratorium. To the extent the LIHEAP-eligible customers are not being certified because they do not know where to contact LIHEAP representatives or they do not know how to become certified, those are things that can be overcome through notification and other steps and would not necessitate a change in the temperature trigger or require a change in the rules.

IAEC contends the change in the temperature trigger would essentially afford customers not eligible for LIHEAP the same protection as the low-income individuals and IAEC does not believe that individuals who are not low-income should be afforded that same protection. IAEC agrees with MidAmerican that both low-income customers and other customers have other protections that are available to them, including level payment plans, budget billing, and payment agreements. These protections do not necessitate a change in Board rules.

IAEC states that its member utilities attempt to work with customers anytime the customer falls behind on their utility bills and a change in the temperature trigger might require the utilities to reduce these efforts. IAEC suggests that adoption of the proposed amendment might actually have a reverse impact or an unintended consequence. The utility could be less willing to work with the customer because there would be fewer days when a customer could be disconnected. By delaying disconnection, the utility might lose the opportunity to disconnect the customer. IAEC urges that the temperature trigger should not be changed in order to avoid that reverse incentive. Finally, IAEC points out that a great deal of effort was undertaken to revise the rights and remedies notice, to make it more understandable to customers, to make customers better able to understand their rights relative to disconnection, and the revised notice has not been used during an entire winter season. IAEC suggests that the Board allow additional time to see if the new notice results in more applications for LIHEAP before the Board moves forward with other rule changes.

7. MidAmerican

MidAmerican opposes the proposed amendment and states that piecemeal rule makings such as this proposed amendment and the proposed amendment to second payment agreements in Docket No. RMU-03-12 are not the appropriate way to address the problem of low-income households that are unable to pay their utility bills. These issues are social issues that should be addressed outside of utility regulation. MidAmerican and other utilities spend a significant amount of money supporting programs for low-income customers and LIHEAP-eligible customers will not be affected by the proposed amendment. MidAmerican indicates it is willing to provide help to other low-income customers if energy costs increase dramatically and that any further protection under the Board's cold weather rules should include a requirement that the customer make regular payments toward the balance of the utility bill.

MidAmerican states that under the proposed amendment, 3,300 customers would have been affected and would not have been required to pay for utility service. These customers would have owed approximately \$1 million for utility service and administrative costs would have added another \$600,000. The proposed amendment would also affect MidAmerican's staffing levels dealing with collections and would greatly increase the number of customers who might choose not to pay for utility service.

MidAmerican states that it takes every action it can to avoid disconnecting a customer. MidAmerican disconnected 3,718 residential customers for non-payment during the winter of 2001-2002 and 3,879 during the winter of 2002-2003.

MidAmerican believes that actual disconnection is usually not necessary since the threat of disconnection will usually result in payment. MidAmerican agrees with IPL that IPL's internal 32-degree rule may work so well because of the threat of disconnection.

MidAmerican charges off a debt 120 days after a final bill is sent. In 2001, MidAmerican charged off \$2,212,774 in bad debt for LIHEAP customers and \$11,868,546 total bad debt. In 2002, MidAmerican charged off \$2,231,479 in bad debt for LIHEAP customers and \$9,687,644 total bad debt. MidAmerican states the data shows that LIHEAP customers' account balances grow significantly during the winter moratorium and extending similar protections to all customers will result in an additional increase in overall bad debt. MidAmerican suggests that adoption of the proposed amendment would have the effect of creating a winter disconnection moratorium for all customers. As a second choice, MidAmerican would not oppose modifying the proposed amendment to allow disconnections when the forecasted high temperature is above 32 degrees at some point during the following 24 hours rather than the current rule that requires the temperature to be 20 degrees for the entire 24 hours.

MidAmerican would support limiting the 32-degree rule to those customers who have broken payment agreements. MidAmerican also supports the proposal

that customers who pay at least 50 percent of their current energy charges each month would qualify for the 32-degree temperature trigger. The 50 percent payment would be in addition to fulfilling the customer's payment agreement. MidAmerican suggests this would meet ICAA's goal of helping low-income customers who pay their energy bills except for the increases caused by cold weather and high prices, and would reduce the arrearages that a customer would have in the spring.

MidAmerican proposes the following language be added to implement these provisions:

Notwithstanding the foregoing, during the period between November 1 and March 31, a disconnection may not take place where gas/electric is used as the only source of space heating or to control or operate the only space heating equipment at the residence for customers who have defaulted on a payment agreement but who have made a good faith effort to pay by paying monthly the equivalent of 50 percent of current monthly charges, unless the National Weather Service forecast for the following 24 hours covering the area in which the residence is located includes a forecast that the temperature will not go below 32 degrees Fahrenheit.

MidAmerican does not dispute ICAA's research that shows that LIHEAP customers generally make payments on utility bills each month and that other low-income customers probably pay each month as well. MidAmerican states that every utility has customers who simply do not make any payments at all until they are forced to do so by threat of disconnection or actual disconnection and this behavior is not caused by high gas prices. MidAmerican contends that allowing those customers to significantly increase their arrearages prior to a real threat of disconnection is not in the best interest of either the remaining customers or the utility. Requiring those

customers to make some payment each month before they qualify for a 32-degree disconnection prohibition is a reasonable solution.

MidAmerican states that in the past, disconnections from January 8 through the remainder of the month would have been delayed until March 14th under a 32-degree rule and this delay would make a significant difference in the amount of arrearages carried by the utility. MidAmerican points out from November 1, 2002, through April 1, 2003, there were only ten days in the entire five-month time frame where a utility could have disconnected a customer if a 32-degree rule had been in place. This is compared to 50 days where a utility could disconnect under the current 20-degree rule.

MidAmerican states that it would support a comprehensive approach to the issues raised by the proposed amendment concerning the relationship between a utility and its customers. Reviewing particular rule changes without considering the potential interaction of the proposal with the other rules is not the optimum solution. As an example, as ICAA noted in its comments, Illinois already prohibits disconnection below 32 degrees. However, for non-LIHEAP customers to avoid disconnection, Illinois requires the customer to make a down payment on the amount the customer owes and must enter into a payment arrangement not to extend beyond the following November. The rules in Illinois are thus very different.

MidAmerican suggests the Board and the participants should not look at pieces of rules from other states but should look at the entire system of protection. In

Illinois, the balance of the deferred payment arrangements under the 32-degree rule protects the customer and protects against unworkable arrearage amounts.

8. Aquila

Aquila does not support the proposed amendment because the proposed amendment will only postpone disconnections and will result in increased costs to utilities. Aquila recommends the Board study the question further before adopting the proposed amendment and consider a recovery mechanism to ensure utilities do not bear a disproportionate share of the risk during cold weather. Aquila estimates the cost of the proposed amendment could range from \$50,000 to \$100,000 per year for uncollected debt.

Aquila suggests that changing the temperature trigger would not address the underlying problem of low-income households that are unable to afford the high cost of utility bills in the winter. Aquila provided additional information and comments concerning the seven states in which it provides service. Three of the states have temperature triggers and four do not. The summary of average arrearages and total number of disconnections shows disconnections have remained constant except for 2001 when the Board extended the moratorium. The average arrearage has also remained constant.

Aquila suggests the Board adopt rules similar to those in Colorado. The Colorado model provides that before a customer can be disconnected, the company must offer the customer a payment agreement with 10 percent of the arrearage paid up front and then six monthly payments. If the customer defaults on that payment

agreement, the company must offer a new agreement with a payment of 25 percent up front. If the customer defaults again, a third payment agreement must be offered with a 50 percent payment upfront.

Aquila states that the proposed amendment is not narrowly defined and that it creates a loophole for "artful dodgers," customers who try to use the rules for their own benefit and are not low-income customers. Aquila encourages the Board to look at other programs in other states that are not tied to temperature triggers. For example, two natural gas utilities in Missouri have low-income rates that discount the cost of gas and the margin that is charged to customers that are proven to be low-income customers. Those alternatives should be considered to determine the most efficient approach.

Aquila points out that it operates in states such as Minnesota that do not have temperature triggers and it does not just shut off customers in the winter in those states. Aquila states that its costs were much higher in states with a temperature trigger than in states without a temperature trigger. Aquila suggests there needs to be a more comprehensive review before there is a commitment to a higher temperature trigger in Iowa.

9. IPL

IPL states that it has a company policy that it will not disconnect a customer if the temperature is forecasted for the following 24 hours to be below 32 degrees. IPL follows this policy during the winter moratorium months and suggests the Board limit the proposed amendment to that period.

IPL supports limiting the proposed amendment to those customers who have a broken payment agreement. IPL provided the rules from Minnesota and Illinois concerning protection of customers from disconnection during the winter months. Minnesota does not have a temperature trigger, but provides protection to customers based upon the customer's ability to pay. Illinois has a temperature trigger that prevents disconnection any time the National Weather Service forecasts 32-degree temperature or lower for 24 hours. IPL states that its current policy and experience in other states supports the proposed amendment if protection is limited to the winter moratorium months. IPL supports limiting the protection to customers with broken payment agreements.

IPL followed a policy using a 32-degree temperature trigger for the last three years even though it continues to send out disconnect notices to customers and post them for disconnection. IPL believes that the posting and the threat of disconnection has proven to be sufficient incentive to induce the majority of customers enter into arrangements to make payment on their past-due energy bills, even though IPL would not actually disconnect them when the temperature is below 32 degrees. Customers understand that there are protections available to them, but most customers do not understand the full extent of those protections and do not know when the temperature trigger takes place. By continuing to send out disconnect notices and post customers, IPL finds that a significant percentage of customers call up and make arrangements to pay their past-due balances.

10. Richard A. Nation

Mr. Nation filed comments that support retention of the current trigger of 20 degrees. He states that low-income households are already protected.

BOARD ANALYSIS

The current provisions provide that a utility is prohibited from disconnecting any customer if the temperature is forecasted to be below 20 degrees during the following 24 hours. The proposed amendment would raise the temperature from 20 degrees to 32 degrees. The Board expanded the protection of this rule from just customers who had defaulted on payment agreements to all customers to provide some protection for all customers during periods of extreme cold weather.

ICAA proposes to expand this protection to include most of the days during the winter heating season. This could significantly restrict disconnection of non-paying customers. IAMU stated that a 32-degree temperature trigger during the 2001-2002, winter moratorium would have prohibited disconnection 149 of the 151 days. The Board understands ICAA's concerns about low-income customers who do not apply for and become certified for LIHEAP. The Board understands that these customers have fewer resources for protecting their property and households when the temperature drops below freezing. However, the Legislature provided protection for low-income customers in Iowa Code § 476.20 with the only requirement that they become certified for energy assistance. The statute was specifically designed to provide protection to the same customers that the proposed amendment is designed

to protect. All a low-income customer has to do to be protected from disconnection for the period of November 1 to April 1 is become certified for energy assistance.

The Board is concerned that over 50 percent of low-income households do not become certified. The fact that LIHEAP funds would not be sufficient to provide a payment for all of these customers is also a concern. However, the solutions to these problems are not to be found by increasing the temperature trigger in the Board's rules. If notification of the existing cold weather protections is inadequate, additional means of notification should be utilized. The problem of limited funds will need to be addressed through programs established by state and federal government and eleemosynary organizations.

Those opposed to the proposed amendment argued that it will increase costs and would potentially prohibit disconnection for all customers for almost the entire winter and for some days outside of the existing winter disconnection moratorium. They also suggested that the increased uncollected debt would have a significant effect on small municipal utilities and rate-regulated utilities alike. These uncollected amounts would have to be recovered from other ratepayers or from taxpayers. Even though the study provided by ICAA indicates that low-income customers pay something during the moratorium, increasing the trigger could reduce the incentive to make any payment on current charges and thus result in higher arrearages after the moratorium.

Suggestions were made to narrow the number of customers that would be covered by the proposed amendment by limiting the application of the amendment to

customers who have broken payment agreements. It was suggested, for example, that the proposed amendment should be limited to the period when the forecast is above 32 degrees at some time during the next 24 hours, rather than a forecast of 32 degrees for the entire 24 hours. A suggestion was also made to require the customer to have paid 50 percent of the current bill to be protected by the 32-degree rule. All of these suggested revisions would make substantive changes to the proposed amendment and can more appropriately be considered in a comprehensive review of all of the Board's cold weather rules.

The Board considers the issue of providing cold weather protection to all low-income households who would be certified for LIHEAP to be an important policy question and the Board finds that approaching the question on a piecemeal basis is not appropriate. A review of the extensive comments and information provided in response to this proposed amendment shows that the solution to this problem involves more than just raising the temperature trigger. As pointed out by several parties, the decision becomes one of what is the best and appropriate policy under utility regulation.

The Legislature has already provided protection for low-income customers, subject only to the requirement that they have been certified by the local community action agency as eligible for energy assistance. If all low-income customers became certified, the statute would protect them, even though there might not be sufficient funds to provide a payment for all of those protected. Raising the temperature trigger could potentially cover most of these same households for most of the winter

moratorium, but it would also provide protection to many customers who may not require that level of protection.

The Board's current rule provides protection to all customers who are subject to disconnection. The Board made this policy decision several years ago when it expanded the application of the 20-degree rule from just those customers who had broken payment agreements to all customers. The Board still considers this rule to be good public policy as a severe-weather measure.

The Board does not consider it appropriate to expand protection for all customers to 32 degrees because it would almost certainly increase the amount of uncollected debt and arrearages and would protect customers other than those intended to be protected. The potential of a significant increase in uncollected debt and arrearages weighs against expanding the protection.

The Board finds that raising the temperature threshold to 32 degrees is too broad a solution to the problem of protecting those low-income households who do not become certified for energy assistance. Suggested revisions only complicate the situation in an unnecessary manner, as § 476.20 already provides a simple and comprehensive protection. All low-income households could be protected by the winter moratorium if they became certified by the community action agency. Increasing certification of low-income households appears to be a better solution than raising the temperature trigger and the Board will work toward that solution.

The Board is conducting an ongoing review of its customer service rules to bring utility practices into line with the Board's rules and to make the rules more

understandable and consistent. The Board recently updated the customer "Rights and Remedies" statement in Docket No. RMU-03-2, updated, clarified, and amended its rules in Docket No. RMU-03-3, and is considering what other rulemakings should be proposed. How to best implement the statutory protection for low-income households is an issue that can best be considered in the context of this broader review. That review can also address options for informing all low-income customers concerning how to become certified for protection under § 476.20. This comprehensive review will help the Board determine if there are additional provisions that could target low-income customers who do not become eligible for energy assistance. In the context of such a review, the Board can also consider amendments to its rules to implement further protections for all low-income households, if appropriate.

The Board will continue this comprehensive review with the goal of having any resulting amendments in place before November 1, 2004. Based upon the discussion above, the Board finds that this rule making should be terminated and the issue of whether to modify the temperature trigger should be considered as a part of a more comprehensive review.

ORDERING CLAUSES

IT IS THEREFORE ORDERED:

1. The rule making identified as Docket No. RMU-03-10 is terminated.

2. The Executive Secretary is directed to submit for publication in the Iowa Administrative Bulletin a "Notice of Termination" in the form attached to and incorporated by reference in this order.

UTILITIES BOARD

/s/ Diane Munns

/s/ Elliott Smith

**DISSENT OF MARK O. LAMBERT
DOCKET NO. RMU-03-10**

I respectfully dissent from the decision of the Board majority.

The 32-degree Fahrenheit temperature trigger proposed by the Iowa Community Action Association should be adopted. This proposal represents a reasonable approach to protecting consumers and property. The reasonableness of the proposed rule is demonstrated by the fact that one investor-owned utility in Iowa is already using a 32-degree trigger. Adopting the proposed rule would result in minimal, if any, additional expense to the utility and/or other ratepayers, and would protect Iowans, particularly low-income people, during the harsh winter months.

I do not object to a more comprehensive review of the temperature trigger along with the other rules designed to protect low-income persons and/or property. I do not believe, however, that the Board should delay implementing this important rule

change while we more comprehensively review the low-income protections. Most policy changes are adopted on an incremental or “piecemeal” basis.

ATTEST: /s/ Mark O. Lambert

/s/ Judi K. Cooper
Executive Secretary

Dated at Des Moines, Iowa, this 6th day of April, 2004.

UTILITIES DIVISION [199]

Notice of Termination

Pursuant to the authority of Iowa Code section 17A.4(1)"b," the Iowa Utilities Board (Board) gives notice that on April 6, 2004, the Board issued an order in Docket No. RMU-03-10, In re: Temperature Trigger for Cold Weather Protections [199 IAC 19.4(15) and 20.4(15)], "Order Terminating Rule Making." The Board's order terminated the rule making commenced in this docket on August 6, 2003. The rule making was commenced pursuant to Iowa Code sections 17A.4, 17A.7, 476.1, 476.1A, 476.1B, 476.2, and 476.20 and published in IAB Vol. XXVI, No. 5 (9/3/03) p. 333, as ARC 2725B. The Board commenced the rule making to receive public comment on a petition for rule making filed by the Iowa Community Action Association (ICAA). The petition proposed to amend the Board's rule by increasing the temperature below which a utility can not disconnect a customer for non-payment from 20 degrees Fahrenheit to 32 degrees Fahrenheit.

On August 6, 2003, the temperature trigger was found in subparagraphs 199 IAC 19.4(15)"h"(6) and 20.4(15)"h"(6), and in 199 IAC 19.4(15)"i" and 20.4(15)"i." Since the publication of the "Notice of Intended Action" the Board has adopted amendments to its rules that renumber subparagraphs 19.4(15)"h"(6) and 20.4(15)"h"(6) as subparagraphs 19.4(15)"d"(7) and 20.4(15)"d"(7). Paragraphs 19.4(15)"i" and 20.4(15)"i" have been rescinded.

Written comments concerning the proposed amendments were filed by ICAA, Iowa Legal Aid, the Consumer Advocate Division of the Department of Justice, MidAmerican Energy Company, Interstate Power and Light Company, Aquila, Inc., d/b/a Aquila Networks, the Iowa Association of Electric Cooperatives, the Iowa Association of Municipal Utilities, the City of Wayland, and Richard A. Nation. An oral presentation was held on October 28, 2003.

The Board's order, issued concurrently with this Notice, discusses the comments and the reasons for the Board's decision to terminate the rule making. The order can be found on the Board's Web site at www.state.ia.us/iub. The Board found that the proposed amendment to the temperature trigger is too broad a solution to the problem of protecting low-income customers during extreme cold weather, as it would extend unnecessary protection to other customers. The Board has determined that any change in the temperature trigger should be addressed as a part of a more comprehensive review of all cold weather protections. The Board will undertake such a review and determine if additional amendments need to be made to those rules.

Pursuant to the authority of Iowa Code section 17A.4(1)"b," the Board hereby terminates the proposed rule making published in IAB Vol. XXVI, No. 5 (9/3/03) p. 333, as ARC 2725B.

April 6, 2004

/s/ Diane Munns
Diane Munns
Chairman